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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/673,868

09/29/2003

Kamal Farhat

1357

7590

05/05/2006

Kamal Farhat  
268 Tahiti Rd.  
Marco Island, FL 34145

EXAMINER

NGUYEN, KHAI MINH

ART UNIT

PAPER NUMBER

2617

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/673,868

Applicant(s)

FARHAT, KAMAL

Examiner

Khai M. Nguyen

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4 is/are rejected.
- 7) ☒ Claim(s) 3 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This Office Action is response to Amendment filed on 1/30/2006  
Claims 1-5 are pending.

### ***Response to Arguments***

2. Applicant's arguments filed 1/30/2006 have been fully considered but they are not persuasive.

Regarding the May reference, applicant states that May is in no way indicates that the system works above water.

In contrast to applicant's assertions, ultrasonic is well known to be used in-water, under-water and over-water. The examiner directs the applicant to U.S. Patent No. 6878019. Patent No. 6878019 clearly discloses in fig.17, in which ultrasonic antenna (1702) is located above the water. The diver, in fig.17, can communicate with the vessel 102 using ultrasonic.

Regarding the May reference, applicant further argues that the bone conduction transducer in May is not equated to an earphone.

In contrast to applicant's assertions, bone conduction transducer is considered as a form of earphone. The examiner also directs the applicant to U.S. Patent No. 5117403. Patent No. 5117403 clearly discloses a bone conduction earphone that can be used above and below water.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by May (U.S.Pat-5889730).

Regarding claim 1, May teaches an under water communication system (fig.1-4) comprising a radio signal sending unit located above the water (fig.1-4, col.3, lines 5-26, *diver 12 to communicate with other diver and/or with a communication system at the surface of the water*), a receiving unit located under water (fig.1-4, element 14) and earphones connected to said receiving unit to receive the signals coming into said receiving unit (fig.1-4, element 16a-16b), both said receiving unit and said earphones are contained to be waterproof (fig.1-4, col.1, lines 55-64, col.2, line 52 to col.3, line 38).

Regarding claim 2, May teaches the under water communication system of claim 1, wherein the RF has to operate in a certain frequency to be operable under water (fig.1-4, col.3, lines 5-26).

Regarding claim 4, May teaches the under water communication system of claim 1 including a receiver antenna which is combined with wires leading to said earphones (fig.1-4, col.3, lines 5-26, *every kind of transceiver has antenna*).

***Allowable Subject Matter***

4. Claims 3, 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Citation of Pertinent Art***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Kanno et al.** (U.S.Pat-6878019) disclose watercraft control systems.

**Eberl et al.** (U.S.Pat-5117403) disclose above and below water sound transducer.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khai M. Nguyen whose telephone number is 571.272.7923. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571.272.7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khai Nguyen  
Au: 2617

  
GEORGE ENG  
SUPERVISORY PATENT EXAMINER

4/22/2006